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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

List of issues prior to submission of the initial report of Honduras*

The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, at its fourteenth session (see A/66/48, para. 26), established a procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its report. The replies of the State party to this list of issues will constitute its report under article 73 (1) of the Convention. In accordance with General Assembly resolution 68/268, paragraph 16, the initial report should not exceed 31,800 words.

A list of issues may also be transmitted to a State party in cases where the Committee decides to examine the implementation of the Convention in the absence of a report, in accordance with rule 31 bis of the provisional rules of procedure (see A/67/48 and Corr.1, para. 26).

Part I

In this section, the State party is requested to submit its responses to the following questions.

A. General information

1. Please provide information on the domestic legal framework regarding the Convention, including:

(a) The rank of the Convention in domestic law and whether the Convention has direct effect or is part of the domestic law through implementing legislation;

(b) Information on the relevant national legislation of the State party regarding the protection of migrant workers and members of their families and on migration policies under the Convention, including the 2003 migration law (Decree No. 208-2003), the 2004

* Adopted by the Committee at its twenty-second session (13-24 April 2015).

regulation setting out the procedures and mechanisms for implementing the 2003 migration law and the law for the protection of Honduran migrants and their families (Decree No. 106-2013);

(c) Measures taken by the State party to harmonize its legislation with the provisions of the Convention;

(d) The existence and scope of bilateral and multilateral agreements with other countries pertaining to the rights of migrant workers and members of their families under the Convention, in particular with Canada, Costa Rica, El Salvador, Guatemala, Mexico, Spain and the United States of America, as well as in the context of the Regional Conference on Migration. Please specify how such agreements protect migrant workers' rights and guarantees in transit and destination countries, particularly in detention, repatriation, expulsion and family reunification procedures, as well as in cases of disappearances of migrants in transit and cases involving the search for and identification of migrants who are victims of crimes. Please provide information on measures taken to strengthen the protection of Honduran migrant workers abroad by reviewing and amending bilateral and multilateral agreements, including with regard to gathering and sharing data among countries.

2. Please provide information on all policies and strategies relating to migrant workers and members of their families adopted by the State party, including information on specific, time-bound and measurable goals and targets to effectively monitor progress in the implementation of the rights of migrant workers and members of their families in the State party and regarding migrant workers and members of their families of the State party abroad. Please also provide information on the resources allocated for their implementation and the results obtained.

3. Please provide information on the government ministry or institution responsible for intergovernmental coordination on the comprehensive implementation of the Convention in the State party, including on the available staffing and resources, on monitoring activities and on follow-up procedures. Please include information about the mechanisms in place for such coordination and the participation of relevant governmental bodies and civil society in such mechanisms. Please also provide information on the mandate of the Solidarity with Honduran Migrants Fund, including the resources allocated for promoting, protecting and fulfilling the rights of migrant workers and their families under the Convention.

4. Please provide information, including both qualitative information and statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows in and from the State party, including returns, other labour migration-related issues and children left behind by migrant parents. Please also provide qualitative and statistical data or, if precise data are not available, studies or estimates on migrant workers in an irregular situation (in the country and abroad), in particular those working in less regulated sectors such as agriculture, textiles, construction, the food industry, mining and domestic work. Please also provide information on the measures taken by the State party to establish a coherent and comparable system of data collection on these issues, including the measures aimed at making such information public.

5. Please provide information on whether the State party has established an independent mechanism, such as a national human rights institution, that is explicitly mandated to monitor independently the human rights situation within the State party, including the rights of all migrant workers and members of their families under the Convention. Please also provide information on complaint mechanisms and other services, including helplines, offered by that institution and if it conducts visits to migrant detention centres or shelters that accommodate Honduran migrants following repatriation from countries of employment or transit. Please also provide information on the human, technical

and financial resources made available to the institution, as well as on awareness-raising activities by the State party among the general public and migrant workers, in both urban and rural areas, in particular on the services offered by the institution, including the right to file a complaint directly with the institution.

6. Please provide information on the steps taken by the State party to promote and publicize the Convention and increase awareness and understanding of its provisions among the general public, migrant workers and members of their families, employers, teachers, health workers and government officials, including law enforcement officials and the judiciary, within the State party. With respect to migrant workers who are nationals of the State party working abroad, please also describe the measures taken by the State party and the corresponding budgetary allocations to promote training programmes on the human rights of migrant workers and their families, including on gender sensitivity and children's rights and assistance to migrants victims of trafficking and other crimes, for government staff who provide legal and consular assistance to nationals of the State party abroad and who deal with migration and related issues, including workplace abuse and exploitation, as well as for migrant workers or members of their families who have been arrested, held in prison or migration-related detention centres, or placed in custody pending trial or expulsion or repatriation. Please include information on the measures, policies and initiatives undertaken by the State party regarding Honduran migrants who may have disappeared, been injured or become the victim of any violent crime during transit, particularly in Guatemala, Mexico and the United States.

7. Please provide information on the cooperation and interaction between the State party and civil society organizations working on migrant workers' rights in relation to the implementation of the Convention. Please indicate whether and how the representatives of civil society organizations, including organizations of family members of disappeared migrants and migrants who have been victims of crimes in transit and destination countries, as well as other stakeholders, are involved in preparing the replies to the present list of questions.

8. Please provide information on the existence of private employment agencies in the State party that recruit migrant workers to work abroad and the laws, rules and regulations pertaining to private recruitment, in particular:

(a) The measures taken to provide information and training to migrant workers on their rights and obligations and to protect against abusive employment situations;

(b) Whether recruiters assume joint liability with the employer for claims and liabilities that may arise in connection with the implementation of the employment contract, including wages, disability compensation, repatriation and death;

(c) Information relating to the issuing and renewal of licences of such employment agencies and conditions for renewal;

(d) Information on complaints against agencies and inspections, as well as penalties and sanctions for non-compliance;

(e) The measures taken by the State party to strengthen migration regulation and control mechanisms to ensure that private recruitment agencies abstain from charging excessive fees for their services and from acting as intermediaries for abusive foreign recruiters.

B. Information relating to the articles of the Convention

1. General principles

9. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts, whether the courts have applied it and, if so, please give examples. Please also provide information on:

(a) The judicial and administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including migrant workers in an irregular situation;

(b) The number of complaints examined by such mechanisms in the past five years and their outcome, disaggregated by sex, type of complaint and decision taken;

(c) Whether legal assistance was provided;

(d) Any redress, including compensation, provided to the victims of such violations;

(e) Any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

2. Part II of the Convention

Article 7

10. Please clarify whether national legislation, in particular the Constitution of Honduras, the migration law (Decree No. 208-2003) and the Labour Code, ensures that all migrant workers and members of their families have the rights provided for in the Convention without distinction of any kind and whether it covers all the prohibited grounds of discrimination enumerated in the Convention (see arts. 1 (1) and 7), including sex, language, national, ethnic or social origin, nationality, age, economic position, property, marital status and birth or other status. Noting article 114 of the 2004 regulation, please explain, in particular, why the State party considers disease, disability, mental disorder, vagrancy and witchcraft, among others, to be valid reasons to forbid the entry of migrants in the country, in the light of article 7 of the Convention. Please also provide information on all the measures taken by the State party to ensure non-discrimination, both in law and in practice. Please also provide information on equal access to health care and other social services for migrant workers and members of their families, both in regular and irregular situations, as well as access to education and cultural, artistic, recreational, sports and leisure activities for children of migrant workers in a regular and irregular situation.

3. Part III of the Convention

Articles 8 to 23

11. Please provide information on the measures taken to combat the exploitation of migrant workers, both in regular and irregular situations, in particular those working in agriculture, textiles, fishing, mining and domestic service. Please also provide information on the measures taken to prevent and combat domestic servitude, forced labour and commercial sexual exploitation, particularly in the context of sex tourism, of migrant workers, in particular women and children. Please also provide information on the measures taken to bring national legislation into compliance with the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), of the International Labour Organization (ILO).

12. Please provide information about the measures taken by the State party to combat racism and xenophobia, discriminatory conduct, ill-treatment and violence directed at migrant workers and members of their families.

13. Please provide detailed information on the measures taken to investigate allegations of harassment, corruption and abuse of authority by law enforcement officials, including as relates to trafficking in persons and smuggling of migrants, as well as allegations of extortion and arbitrary detention of migrant workers and members of their families, including Honduran migrants trying to leave the country. Please indicate the number of law enforcement officials who have been investigated, prosecuted and convicted in this regard, and specify the nature of the charges and sentences imposed.

14. Please provide information about the measures taken to prevent and investigate the disappearance of Honduran migrants in transit, including protection policies, bilateral and regional agreements and initiatives, mechanisms for searching for the disappeared and identifying bodies, for supporting the families of the disappeared in carrying out such searches, for ensuring access for the families of the disappeared to information and justice and for regularly collecting data on disappearances. In that regard, please also provide information on relevant training provided to personnel in consulates and the mandate and budget that consulates have in relation to disappearances as well as the role of the National Commission of Human Rights.

15. Please provide qualitative and quantitative information on detention centres, in particular those in Tegucigalpa and Choluteca, and on the conditions of detention of migrant workers, disaggregated by nationality, sex, age and other criteria, as well as on relevant legislative provisions. In the case of families and children in migration-related detention, please provide information on sanitary conditions, food and water, communication with and visitation by family members, medical care and education, access to complaint procedures and legal provisions that allow for the detention of children. In cases of children in detention, please indicate whether the children are kept together with their parents during detention and, if not, who is taking care of unaccompanied children in the absence of their parents. Please also provide information on the role of the Honduran Institute for Children and the Family and/or the Directorate for Children, Adolescents and the Family in this regard. Please provide information on whether detention takes place in a public establishment and whether such establishments are not part of the prison system. Please also provide information on whether the State party has in place alternatives to detention for immigration-related matters, especially with respect to unaccompanied children and families with children.

16. Please provide information on the measures taken to ensure that, in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with legal assistance and interpretation, as necessary, and that they have access to information in a language they understand. Please also provide information on the measures taken to ensure that migrant workers and members of their families are expelled from the territory of the State party only pursuant to a decision taken by a competent authority, following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal. Please specify which kinds of crimes lead to the removal of a migrant worker from the country (according to article 122 of the 2004 regulation).

17. Please provide information on the measures taken to protect the rights and due process guarantees, including legal assistance, of Honduran migrant workers and their families in detention and awaiting expulsion in transit and destination countries, in particular Mexico and the United States, including through consular protection and assistance policies and programmes.

Articles 25 to 30

18. Please provide information on the measures taken to ensure in practice the right of equality of treatment of migrant workers, particularly migrant women, especially in the agricultural, manufacturing and domestic sectors, and to monitor effectively their conditions of employment. Please indicate what legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including in the agricultural and domestic sectors, enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and conditions of work. Please also include information on the measures aimed at promoting the rights of Honduran migrant workers abroad.

19. Please provide information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have adequate access to medical care and emergency services.

Articles 31 to 33

20. Please provide information on the measures taken by the State party to ensure that migrant workers and members of their families have the right to transfer their earnings and savings and, in accordance with the applicable legislation, their personal effects and belongings. Please also provide information on the measures taken to facilitate the transfer of private funds, particularly to reduce the cost of such transactions. Please also provide information on whether the State party has conducted any specific information and training programmes on the Convention for relevant civil servants, such as law enforcement officials, embassy and consular staff, social workers, judges, prosecutors, child protection service providers and government officials.

21. Please provide information on pre-departure programmes for the State party's nationals considering emigration, including information on their rights and obligations in the State of employment. Please indicate which government institution is responsible for providing such information and if any coordinated policies, programmes or legislation have been developed and adequately funded to ensure transparency and accountability in this process.

4. Part IV of the Convention

Article 39 and 40

22. Please provide information on the measures taken to guarantee migrant workers and members of their families the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there, with special emphasis on seasonal and frontier workers. Please also provide information on the measures taken to guarantee migrant workers and members of their families the right to form, and to form part of the leadership of, associations and trade unions, in accordance with article 40 of the Convention.

Article 41

23. Please provide information on the measures taken by the State party to review its legislation and the effective implementation thereof to ensure for migrant workers and members of their families of the State party abroad: (a) the right to participate in public affairs in the State party; (b) the right to exercise their voting rights in the State party; and (c) the right to be elected to public office in the State party.

Article 44

24. Please provide information on the measures taken to promote and protect the right to family life of migrant workers and their families in the State party and in countries of employment. Please include information on programmes and policies aimed at facilitating family reunification abroad, as well as the measures intended to protect the right to family life of Honduran migrant workers and their families in the context of expulsion procedures in destination countries.

5. Part V of the Convention

Articles 58 and 59

25. Please provide information on the measures taken to improve the situation of frontier workers, including the measures taken to implement the El Salvador-Honduras pilot project for regularization and to include in national legislation the definition of frontier workers as well as specific provisions related to the protection of their rights, in accordance with article 58 of the Convention. Please also provide information on the measures taken to guarantee to seasonal workers and members of their families, including migrant workers from Nicaragua in coffee plantations in the department of El Paraiso, the rights provided in part IV of the Convention.

6. Part VI of the Convention

Article 64

26. Please provide information on the short-, medium- and long-term strategies at the national and regional levels and the measures taken, including consultations and cooperation with other States, to promote sound, equitable and humane conditions in connection with the international migration of workers and members of their families.

27. Please provide information on the measures taken to prevent irregular migration of nationals of the State party, in particular women and unaccompanied children, including through multilateral and bilateral agreements, policies and programmes aimed at enhancing legal migration channels and at addressing the root causes of irregular migration, such as violence (including social violence, gender-based violence, violence against children and institutional violence), insecurity, impunity, corruption, organized crime, poverty, unemployment, income inequality, discrimination, trafficking in persons, the weakening of family relationships and lack of investment in health and education. In that regard, please provide information about the implementation of the National Plan for the Generation of Decent Employment. Please also include information on how such measures have been mainstreamed into overall migration policies and programmes and whether there has been a reduction in the number of irregular migrants as a result of such measures.

28. Please provide information on the role that security forces, such as the Special Tactical Operations Group, the Intelligence Troop and Special Security Response Groups and the Transnational Criminal Investigative Unit, have in preventing irregular migration, including information on their funding, training and relation with security forces of transit and destination countries of Honduran migrant workers. Please include information on the measures taken for ensuring the rights of migrant workers and their families in the context of the activities developed by these institutions.

Article 67

29. Please provide information on cooperation programmes in place between the State party and relevant States of employment for the voluntary return of migrant workers and

members of their families to the State party when they decide to return or when they are in the State of employment in an irregular situation. Concerning migrant workers in a regular situation, please provide information on cooperation programmes between the State party and relevant States of employment on promoting adequate conditions for resettlement and reintegration in the State party, including the fulfilment of social and labour rights, access to social services and protection from violence, and addressing other root causes of migration. Please also provide information on the measures taken both at the national and local levels to assist returning migrant workers and members of their families in resettlement and reintegration into the economic and social life of the State party. Particularly, provide information on the situation of Honduran migrant workers in detention centres in transit or destination countries and on how the State party assists them in legal procedures prior to expulsion and upon their return to Honduras.

30. Please provide information on the measures taken to promote conditions that facilitate the resettlement and reintegration of migrant children who are nationals of the State party upon their return to the State party, with a view to finding durable solutions, including as regards children placed initially in shelters in Tegucigalpa and San Pedro Sula. Please indicate the ways in which such measures respect the best interest of the child. Please also include information on the measures aimed at protecting children who migrated as a result of the high level of violence and homicides and other root causes in the State party. Please also include information on national and regional programmes aimed at addressing the root causes of irregular child migration and the protection of their rights in transit and destination countries.

31. Please provide information on the measures taken by the State party to ensure the rights of migrant children and their protection from any kind of violence and exploitation, particularly those who are unaccompanied or in an irregular situation, in or transiting through the State party, including the allocation of sufficient resources for the effective enforcement of labour laws and the protection of children from economic exploitation. Please provide information on the steps taken to protect children from hazardous work, including through the implementation of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), and the strengthening of the labour inspection system.

Article 68

32. Please provide information on campaigns aimed at countering misleading information relating to emigration and raising awareness among nationals of the State party, including unaccompanied children, about the dangers of irregular migration. Please also provide information on cooperation efforts with countries of transit and destination, with a view to ensuring the rights of the State party's migrant workers abroad, including migrant children, whether accompanied or not, in transit through third States and upon arrival in the countries of destination. Please also indicate the measures taken by the State party to prevent the irregular migration of its nationals, including unaccompanied children.

33. Please provide information on the measures and corresponding human and financial resources taken by the State party to prevent and eliminate trafficking in persons and smuggling of migrants, in particular women and children. Please indicate if and how the problem of irregular migration is addressed through a human rights-based approach. Please provide, in particular, information on the measures taken to systematically compile disaggregated data and to bring perpetrators of trafficking in persons and smuggling of migrants to justice. Please also provide information on the measures taken by the State party to adopt specific legislation and policies to prevent and eliminate trafficking in persons and smuggling of migrants, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol

against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

Article 69

34. Please provide information on any measures taken to ensure that migrant workers and members of their families in an irregular situation in the State party have the possibility to regularize their situation in accordance with the provisions of article 69 of the Convention. Please describe the actions taken by the State party, including through its consular assistance and bilateral and multilateral agreements, to improve the protection and assistance afforded to its nationals abroad, including efforts to promote the regularization of their situation.

Part II

The Committee invites the State party to briefly (three pages maximum) provide information regarding the protection of migrant workers and members of their families with respect to:

(a) Bills or laws, and their respective regulations;

(b) Institutions (and their mandates) or institutional reforms;

(c) Policies, programmes and action plans covering migration and their scope and financing;

(d) Recent ratifications of human rights instruments, including International Labour Organization (ILO) Convention No. 97 (1949) concerning Migration for Employment, ILO Convention No. 143 (1975) concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, and ILO Convention No. 189 (2011) concerning decent work for domestic workers;

(e) Recent comprehensive studies on the situation of migrant workers and members of their families.

Part III

Data, official estimates, statistics and other information, if available

1. Please provide, if available, updated disaggregated statistical data and qualitative information for the past three years (unless indicated otherwise) on:

(a) The volume and nature of migratory flows in and from the State party for the period from the entry into force of the Convention in the State party to the present;

(b) Migrant workers in detention in the State party and migrant workers who are nationals of the State party and are detained abroad in States of transit and employment, and whether such detention is immigration-related;

(c) Migrant workers and members of their families who have been expelled or deported from the State party;

(d) The number of unaccompanied migrant children or migrant children separated from their parents in the State party, including the number of Honduran migrant children in transit and employment States and Honduran children left behind;

(e) Remittances received from nationals of the State party working abroad, in actual numbers and as a percentage of the gross domestic product;

(f) Reported cases of trafficking in and smuggling of migrants, investigations, prosecutions and sentences imposed on perpetrators (disaggregated by sex, age, nationality and purpose of trafficking);

(g) Legal assistance services provided to migrant workers and their families in the State party and to nationals working abroad or in transit through third States.

2. Please provide any additional information on any important developments and measures to implement the Convention relating to the protection of the rights of migrant workers and members of their families that it considers a priority, including whether the State party envisages making the declaration under article 76 of the Convention recognizing the competence of the Committee to receive and consider State-to-State communications, and/or the declaration under article 77 of the Convention recognizing the competence of the Committee to receive and consider individual communications.

3. Please submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

4. The Committee may take up all aspects of the rights of migrant workers and members of their families in the Convention during the dialogue with the State party.